



**DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 EAST CAPITOL  
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August 28, 2000

Title VI Guidance Comments  
Attention: Anne E. Goode  
Office of Civil Rights (1201A)  
US Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Re: Draft Title VI Guidance for EPA Assistance Recipients Administering  
Environmental Permitting Programs (Draft Recipient Guidance) and Draft Revised  
Guidance for Investigating Title VI Administrative Complaints Challenging Permits  
(Draft Revised Investigation Guidance)

Dear Ms. Goode:

Please accept these comments on behalf of the South Dakota Department of Environment and Natural Resources in regard to the draft EPA guidance published in the above matter June 27, 2000. The South Dakota Department of Environment and Natural Resources joins the Environmental Council of the States (ECOS) in urging the US EPA to substantially revise the draft guidance to address the fundamental flaws prior to finalizing the draft guidance documents.

At its August 14, 2000, annual meeting, ECOS approved detailed comments on the revised Title VI Guidance, the subject of this Federal Register notice. The South Dakota Department of Environment and Natural Resources incorporates those comments into our comments in this matter as if set forth fully herein. ECOS identified a number of flaws in both the external and internal guidance documents. Both guidance documents lack the clarity and certainty required for the basis of a sound regulatory policy. They are vague and lacking in key definitions (such as "adverse disparate impact," "adequate populations," and "comparison populations") and lack necessary standards and methodologies for conducting adverse impact analysis.

Specifically in regard to the external guidance, it does not address "unfunded mandate" concerns raised by ECOS. The external guidance also does not adequately reflect the dual goals of ECOS Resolution 98-2, of providing clarity as to how states can meet the requirements of Title VI, while allowing flexibility in the manner in which states may achieve that compliance. Specifically in regard to the internal guidance, it does not provide adequate and definite procedural timeframes, thresholds as to who can file a complaint, and standards for dismissing

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complaints where pollution will actually be reduced. The internal guidance also largely ignores the role of local government and is vague on the process of informal dispute resolution.

The South Dakota Department of Environment and Natural Resources remains committed to the fair treatment of all people regardless of race, color, national origin, or income with respect to environmental permit proceedings and in the development, implementation, and enforcement of environmental laws, regulations, and policies. However, because of the flaws identified in this letter and in the ECOS comments dated August 14, 2000, we urge the US EPA to continue the deliberative process with ECOS and other stakeholders to address these concerns prior to issuing any final guidance in regard to the subject matter addressed in the Federal Register notice of June 27, 2000.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Pirner', with a stylized flourish at the end.

Steven M. Pirner  
Secretary

c: Robert E. Roberts, ECOS



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RETURN SERVICE REQUESTED

TITLE VI GUIDANCE COMMENTS  
ATTN: ANNE E GOODE  
OFFICE OF CIVIL RIGHTS (1201A)  
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WASHINGTON DC 20460

